



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/828,802

04/20/2004

Erin N. Rosskopf

0022.03

5070

25295

7590

11/15/2006

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

EXAMINER

STITZEL, DAVID PAUL

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/828,802

Examiner

David P. Stitzel, Esq.

Applicant(s)

ROSSKOPF ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 23 August 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

OFFICIAL ACTION***Notice of Non-Compliant Amendment***

Applicants' Response, which was filed on August 23, 2006, is not fully responsive to the Official Action dated May 30, 2006, because of the following omission or matter: In the claim listing, the status of each and every claim must be indicated after its claim number by using one of the following proper claim status identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered). See MPEP § 714 and 37 C.F.R. § 1.121.

With respect to the claims of the instant application as currently presented, an improper claim status identifier is associated with claims 3-8, 14, 16 and 17 as presented in the aforementioned Response. More specifically, although claims 3-8, 14, 16 and 17 were withdrawn from further consideration as being directed to a non-elected invention, claims 3-8, 14, 16 and 17 are incorrectly labeled with an improper claim status identifier (i.e., "Original" as opposed "Withdrawn"). Presenting claims 3-8, 14, 16 and 17 in the following fashion would place the aforementioned Response in a condition of being fully responsive: "Claim 3 (Withdrawn);" "Claim 4 (Withdrawn);" "Claim 5 (Withdrawn);" and so forth.

Since the aforementioned reply appears to be *bona fide*, Applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 C.F.R. § 1.136(a).

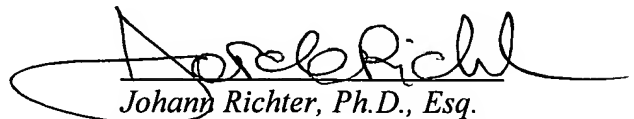
Contact Information

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David P. Stitzel, M.S., Esq., whose telephone number is 571-272-8508. The Examiner can normally be reached on Monday-Friday, from 7:30AM-6:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Johann Richter, Ph.D., Esq., can be reached at 571-272-0646. The central fax number for the USPTO is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published patent applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished patent applications is only available through Private PAIR. For more information about the PAIR system, please see <http://pair-direct.uspto.gov>. Should you have questions about acquiring access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David P. Stitzel, M.S., Esq.
Patent Examiner
Technology Center 1600
Group Art Unit 1616


Johann Richter, Ph.D., Esq.
Supervisory Patent Examiner
Technology Center 1600
Group Art Unit 1616